No. _____

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

IN RE CHERYL R. RICHARDSON,
Petitioner(s)

v.

SAFEWAY ROCKY MOUNTAIN FEDERAL CREDIT UNION,
Respondent(s)

On Petition For Writ Of Certiorari
To The Combined Courts of the State of Colorado

CHERYL R. RICHARDSON
515 SHADY CREST CIRCLE
COLORADO SPRINGS, CO 80916
(719) 210-3605 OR 210-3514

Questions Presented

1. Whether the combined courts of the State of Colorado (Colorado Court of Appeals and Supreme Court of State of Colorado) failed to answer petitioner's question on when a case is closed under C.R.C.P. 60(B)(1), (2) and (5) at time of District Court's judgment, Court of Appeals of Colorado, Colorado Supreme Court or the Supreme Court of the United States. Did the courts violate state constitution and violate the petitioner's right under the United States Constitution?

2. Whether combined courts of the State of Colorado (Colorado Court of Appeals and Supreme Court of State of Colorado) failed to answer petitioner's question on at what time, under C.R.C.P. Rule 60(A), the Court used this rule that stated that at any time of its own initiative on the motion of any party and after such notice may correct any errors therein arising from oversight or omission did this acting of the courts violate the state constitution and violate petitioner's right under the United States Constitution?

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Constitutional and Statutory Provisions Involved

Federal 7 U.S.C.S. 362(a)(6)	1
Federal 11 U.S.C. § 362	1
Federal 42 U.S.C.S. 1983	1
State Statutes of Colorado	
13-80-102(a)	1
13-80-108(7)	1
13-40-123	1
Rule 10, Record on Appeal	2
Colorado Rules of Civil Procedure 60(A)(B)(1)(2)(5)	1

I. Statement of Jurisdiction

The U.S. Supreme Court has jurisdiction under 28 U.S.C.S. § 1651(a), which authorizes federal courts to issue all writs necessary or appropriate in aid of their jurisdiction and agreeable to the usages and principles of law. The power of federal courts extends, under appropriate circumstances, to persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice, and encompasses even those who have not taken any affirmative action to hinder justice. The U.S. Supreme Court is authorized to issue an extraordinary writ (Writ of Prohibition) under 25 U.S.C. § 1651(1). In Re Cheryl R. Richardson is seeking a Writ of Prohibition, which would be in aid of jurisdiction.

II. Constitutional and Statutory Provisions Involved

The petitioner filed a complaint that the combined courts of the State of Colorado (District Court and Court of Appeals of Colorado) have violated Colorado Rules of Civil Procedure under Rule 60(a)(B)(1)(2)(5) in the case of Cheryl R. Richardson v. Safeway Rocky Mountain Federal Credit Union which the Colorado Supreme Court failed to answer the question on when the time started under Rule 60(a)(B)(1)(2)(5).

III. Statement of the Case

1. The petitioner filed a complaint under tort case for breach of contract under Colorado tort law 13-80-102(a), 13-80-108(7), 13-40-123, and the Civil Rights Act, 42 U.S.C.S. 1983, in which the District Court of El Paso County, State of Colorado (Judge David A. Gilbert) "did omit the petitioner's evidence, witnesses' testimony, and all of Colorado Consumer Credit Code."
2. The District Court omitted a federal court order (Case No. 00-17100 DEC) that the certificate of the creditors have violated Chapter 7 U.S.C. § 362(a)(6) is hereby stricken. The respondent violated the automatic stay of 11 U.S.C. § 362 when they

repossessed the car on September 11, 2001, when the automatic stay was not over until October 13, 2000, that meant that respondent had violated Chapter 7 U.S.C. 362(a)(6) then under United States Bankruptcy Court order. As stated in District Court order, bankruptcy discharges note, but discharges the promissory note, but bankruptcy never discharged the promissory note, so that is an error by the District Court.

3. The Colorado Court of Appeals in petitioner's case (No. 02CA2297, Judge Kapelke and Judge Vogt) did violate petitioner's right under the United States Constitution by affirming judgment in Case No. 02CA2297 of the District Court, which the Colorado Court of Appeals lawfully discharged the duties of the court by stating, "appellant must designate all portions of the record necessary for appeal of the trial court factual findings," which under Colorado Record on Appeal Rule 10 stated, "Colorado Rule 10(E)" stated, "if anything material to either party is omitted from the record by error or accident or is mistaken therein, the parties by stipulation of the trial court, either before or after the record is transmitted to the appellate court, or the appellate court, on proper suggestion or of its own initiative, may direct that the omission or misstatement be corrected, and if necessary that a supplemental record be certified and transmitted" when the Colorado Court of Appeals denied plaintiff's motion asking the Court of Appeals to amend designate of record. The court did deny plaintiff's motion on the rehearing about Rule C.R.C.P. 60(A)(B)(1)(2)(5).
4. The Supréme Court of the State of Colorado did deny all of the petitions for Writ of Certiorari. The petitioner is presenting questions to the Supreme Court of the United States on whether the combined courts of the State of Colorado "failed to answer petitioner's question on Rule C.R.C.P. Rule 60(a)(B)(1)(2)(5) would be a violation of state and

violation of petitioner's right under the United States Constitution."

IV. Reasons for Granting the Petition

The petition for Writ of Certiorari should be granted under an extraordinary writ (28 U.S.C. § 1651(a)) on the fact that combined courts of the State of Colorado did fail to answer the petitioner's question on Rule C.R.C.P. Rule 60(a)(B)(1)(2)(5). The court should grant a Writ of Prohibition. A writ would be appropriate in aiding the court in jurisdiction and be agreeable to the usages and principles of law. No distinction is to be made between orders in aid of a court's own duties and jurisdiction and orders designed to better enable a party to effectuate its rights and duties. It would be the duty of the U.S. Supreme Court to grant a Writ of Certiorari under extraordinary writ or Writ of Prohibition. This would be in aid of jurisdiction from pro se and the court of the State of Colorado..

V. Conclusion

The Petition for a Writ of Certiorari should be granted as a matter of law.

I, Cheryl R. Richardson, certify that the Writ of Certiorari is presented in good faith and not for delay.

Submitted by

Cheryl R. Richardson

January 23, 2007

APPENDIX A
DECISION OF STATE COURT OF APPEALS

COLORADO COURT OF APPEALS July 13, 2006
No. 04CA1689 ORDER DENYING PETITION FOR REHEARING

CHERYL R. RICHARDSON,
PLAINTIFF-APPELLANT
v.
SAFEWAY ROCKY MOUNTAIN, FEDERAL CREDIT UNION,
DEFENDANT-APPELLEE

Appeal from the EL PASO COUNTY
Honorable DAVID A GILBERT, Judge
No. 01CV3007

The PETITION FOR REHEARING filed in this appeal by:

CHERYL RICHARDSON/PLAINTIFF-APPELLANT

is DENIED. DIV III

Issuance of the Mandate is stayed until: August 14, 2006

If a Petition for Certiorari is timely filed with the Supreme Court of Colorado, then the stay shall remain in effect until disposition of the cause by that Court.

By the Court:

GRAHAM, J.
TAUBMAN, J.
FURMAN, J.

COLORADO COURT OF APPEALS

Court of Appeals No.: 04CA1689
El Paso County District Court No. 01CV3007
Honoral[illegible]David A. Gilbert, Judge

Cheryl R. Richardson,
Plaintiff-Appellant,
v.
Safeway Rocky Mountain Federal Credit Union,
Defendant-Appellee.

ORDER AFFIRMED AND CASE REMANDED WITH DIRECTIONS

Division III
Opinion by: JUDGE GRAHAM
Taubman and Furman, J.J., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)
Announced: June 8, 2006

Cheryl R. Richardson, Pro Se

Meinster & Meinster, P.C., Barry Meinster, Conifer, Colorado, for Defendant-Appellee

In this case arising from repossession of a vehicle, pro se plaintiff, Cheryl R. Richardson, appeals the trial court's order denying her C.R.C.P. 60(b) motion for relief from judgment. We affirm and remand for an award of attorney fees.

Richardson borrowed money from defendant, Safeway Rocky Mountain Federal Credit Union, and purchased the vehicle. Richardson declared bankruptcy, but the bankruptcy action was closed before the Credit Union repossessed the vehicle. The repossession was based on Richardson's failure to maintain insurance as required by the loan agreement.

Richardson sued the Credit Union for breach of contract, unspecified torts, and violation of her "1983 Civil Right." Following a bench trial, the court treated the action as one primarily for breach of contract and found in favor of the Credit Union. The trial court entered its judgment on October 3, 2002.

Richardson filed a post-trial motion citing C.R.C.P. 60(a), which the trial court treated as a C.R.C.P. 59 motion and denied. Richardson appealed, and a division of this court affirmed the trial court's order. Richardson v. Safeway Rocky Mountain Fed. Credit Union, (Colo. App. No. 02CA2297, Oct. 9, 2003) (not published pursuant to C.A.R. 35(f)). Richardson's subsequent petition for certiorari was denied, and the mandate issued on March 30, 2004.

On July 16, 2004, Richardson filed a motion for relief from judgment under C.R.C.P. 60(b)(1) and (2). The trial court denied the motion. After numerous filings by Richardson, a division of this court allowed Richardson to appeal the trial court's denial of her C.R.C.P. 60(b) motion.

We conclude that Richardson's motion for relief from judgment pursuant to C.R.C.P. 60(b)(1) ad (2) was untimely. C.R.C.P. 60(b), as pertinent here, allows the trial court to set aside a judgment for "(1) [m]istake, inadvertence, surprise, or excusable neglect; [or] (2) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse

party." Motions for relief under C.R.C.P. 60(b)(1) and (2) must be filed within six months of entry of judgment.

Here, the final judgment was entered on October 3, 2002, and Richardson's C.R.C.P. 60(b) motion was not filed until twenty-one months later, on July 16, 2004. Thus, the motion was untimely, and the order of the trial court, denying the motion, may be affirmed on that basis.

The Credit Union requests an award of attorney fees pursuant to C.A.R. 39.5, stating that the appeal is frivolous. We agree and conclude that pursuant to § 13-17-102(6), C.R.S. 2005, Richardson should have known that a motion pursuant to C.R.C.P. 60(b)(1) and (2) had to be made within six months after the judgment was entered.

Because we conclude that this appeal is frivolous, we remand the case to the trial court to assess attorney fees against Richardson. See Se. Colo. Water Conservancy Dist. V. Cache Creek Mining Trust, 854 P.2d 167 (Colo. 1993).

The order is affirmed, and the case is remanded to the trial court for an award of attorney fees.

JUDGE TAUBMAN and JUDGE FURMAN concur.

APPENDIX B
DECISION OF STATE TRIAL COURT

District Court El Paso County, State of Colorado Court Address: 20 E. Vermijo Ave., Colorado Springs, Colorado 80903	
Plaintiffs: Cheryl Richardson **Defendant** Safeway Rocky Mountain Federal Credit Union	▲COURT USE ONLY▲
Meinster & Meinster, P.C. Barry Meinster Attorney for the Defendant PO Box 681 Conifer, Colorado 80433 Phone Number: 303-674-5977 FAX Number: 303-674-9662 E-mail: bmeinster@meinster.com Atty. Reg. #: 15483	Case Number: 01CV3007 Div.: 7 Ctrm:
Order on Motion Under Rule 60(B)(1)(2) Relief from Judgment or Order And Response thereto	

Upon the foregoing Motion Under Rule 60(B)(1)(2) Relief from Judgment or Order and Response thereto it is hereby ordered that the motion is denied.

Date: _____

_____
District Court Judge

APPENDIX C
DECISION OF STATE SUPREME COURT DENYING REVIEW

SUPREME COURT, STATE OF COLORADO TWO EAST 14TH AVENUE DENVER, COLORADO 80203 CERTIORARI TO THE COURT OF APPEALS, 04CA1689 DISTRICT COURT, EL PASO COUNTY, 01CV3007	CASE NO. 06SC508
Petitioner: CHERYL R. RICHARDSON, v. **Respondent:** SAFEWAY ROCKY MOUNTAIN FEDERAL CREDIT UNION.	
ORDER OF COURT	

Upon consideration of the Petition for Rehearing on Writ of Certiorari filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that said Petition for Rehearing on Writ of Certiorari shall be, and the same hereby is, DENIED.

BY THE COURT, NOVEMBER 28, 2006.

Copies mailed via the State's Mail Services Division on 11-29-06.

Cheryl R. Richardson
515 Shady Crest Cir.
Colorado Springs, CO 80916

Barry Meinster
PO Box 681
Conifer, CO 80433

APPENDIX D
ORDER OF STATE SUPREME COURT DENYING REHEARING

SUPREME COURT, STATE OF COLORADO TWO EAST 14TH AVENUE DENVER, COLORADO 80203 CERTIORARI TO THE COURT OF APPEALS, 04CA1689 DISTRICT COURT, EL PASO COUNTY, 01CV3007	CASE NO. 06SC508
Petitioner: CHERYL R. RICHARDSON, v. **Respondent:** SAFEWAY ROCKY MOUNTAIN FEDERAL CREDIT UNION.	
ORDER OF COURT	

Upon consideration of the Petition for Writ of Certiorari to the Colorado Court of Appeals and after review of the record, briefs, and the judgment of said Court of Appeals,

IT IS THIS DAY ORDERED that said Petition for Writ of Certiorari shall be, and the same hereby is, DENIED.

BY THE COURT, EN BANC, NOVEMBER 13, 2006.

Copies mailed via the State's Mail Services Division on 11/13/06. KLM

Cheryl R. Richardson
515 Shady Crest Cir.
Colorado Springs, CO
80916

Honorable David A. Gilbert
El Paso County
PO Box 2980
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Colorado Court of Appeals